



**Scott Walker**  
Governor

**Richard G. Chandler**  
Secretary of Revenue

## **DOR Procedures Reform Bill – Special Session Senate Bill 23**

*Senate Committee on Public Health, Human Services and Revenue*

October 24, 2011

Special Session Senate Bill 23 is consistent with DOR's goal to provide excellent customer service by codifying existing practices and establishing new pro-taxpayer reforms, including:

- Improving communications between DOR and taxpayers.
- Promoting consistent tax policy and treatment for taxpayers.
- Assuring that penalties for noncompliance are fair.
- Strengthening taxpayer confidentiality by updating language to match updated technology.

DOR has developed Publication 114 that reflects how DOR employees are expected to treat taxpayers whether under audit or otherwise. DOR provides extensive training to our employees to ensure accurate and consistent taxpayer guidance and audits. Many of the procedure reforms included in Special Session Senate Bill 23 are already DOR practice. This legislation will further establish these practices. Other changes are consistent with DOR's customer service and policy goals and will ultimately result in better tax administration for both the individual taxpayer and DOR.

### **Key Highlights of SS SB 23**

- ❖ *Negligence Penalties*  
The bill moves the burden of proof for negligence penalties assessed by DOR from the taxpayer to DOR. The standard to assess a penalty remains willful neglect by the taxpayer and not errors that resulted from reasonable cause. DOR already assesses taxpayers and defends cases before the Tax Appeals Commission (TAC) as if the burden were on DOR to prove taxpayer negligence.
- ❖ *Written Guidance*  
DOR desires its guidance on tax issues to be accountable and consistent. This provision provides clarity that published guidance is authoritative for taxpayer use
- ❖ *Reliance on Past Audits*  
This bill provides that DOR cannot hold taxpayers liable for taxes due that are inconsistent with a past audit of that same tax issue, unless DOR has disseminated revised published guidance on the same issue, or unless there has been a law or rule change or final decision of the TAC or courts on the same tax issue.
- ❖ *Browsing*  
Special Session Senate Bill 23 strengthens statutory language that specifies DOR employees may not browse through taxpayer information. Current statutes limit browsing prohibitions to only the tax returns and only individual income taxes. However, with electronic record storage, "information" is a more descriptive term that will protect taxpayers from unnecessary viewing of their confidential tax records by DOR employees.





STATE SENATOR

# RICH ZIPPERER

**Submitted Testimony of Sen. Rich Zipperer  
Special Session Senate Bill 23- Revenue Reform Bill  
Senate Committee on Public Health, Human Services, and Revenue**

**October 24, 2011**

Madam Chair and committee members, thank you for holding this hearing today on Special Session Senate Bill 23, a bill that improves both the consistency and the efficiency of how our tax laws are enforced and how our taxes are collected. This bill is similar to Assembly Bill 968 of the 2005-2006 legislation session.

One word we have heard about repeatedly in our current economy is the need for greater certainty, and a major goal of this bill is tax certainty. Put simply, Wisconsin's tax laws need to be updated in order to create more predictability for our job creators and taxpayers.

This legislation originally was drafted in part in response to concerns about practices of the Department of Revenue uncovered in a 2006 survey of Wisconsin businesses and tax professionals.

Some of the most common concerns that were identified in the survey, and would be improved in this bill, relate to the areas of guidance, audit procedures, and appellate and court procedure. The bill removes tax liability in cases where taxpayers made a decision based on prior audit determinations where the Department changes its position without notice to the taxpayer. Further, recognizing that compliance with complicated tax laws is incredibly burdensome and that honest mistakes do occur, this proposal shifts the burden of proof in a negligence penalty to the Department instead of placing it on the taxpayer.

This bill seeks to provide fairness, justice, and impartiality for business and individual taxpayers. Our state's tax system is complex and taxpayers should have a resource in the Department not an adversary.

Arbitrary bureaucratic rulings by the Department can cost money and jobs. Taxpayers have indicated that they often receive inconsistent verbal advice. The failure of the Department to provide reliable guidance has caused many businesses to hire accounting firms or law firms to provide advice, often at a significant cost to the business and at considerable harm to their ability to compete in the global marketplace.

The goal of this bill is to restore trust and confidence in Wisconsin's tax collection system. Taxpayers and businesses need to know that tax laws will be enforced consistently and efficiently, and this bill is a major step forward in that direction.

